

## Message Text

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ACTION NEA-10

INFO OCT-01 EUR-12 EA-10 IO-13 ISO-00 CIAE-00 DODE-00  
PM-05 H-01 INR-10 L-03 NSAE-00 NSC-05 PA-01  
SP-02 SS-15 ICA-11 HA-05 /104 W  
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R 030245Z AUG 78  
FM AMEMBASSY KABUL  
TO SECSTATE WASHDC 9390  
INFO AMEMBASSY ANKARA  
AMEMBASSY DACCA  
USMISSION GENEVA  
AMEMBASSY ISLAMABAD  
AMEMBASSY MOSCOW  
AMEMBASSY NEW DELHI  
USLO PEKING  
AMEMBASSY TEHRAN  
USUN NEW YORK 801  
CINCPAC

C O N F I D E N T I A L K SECTION 1 OF 2 KABUL 6281

CINCPAC FOR POLAD

E.O. 11652: GDS  
TAGS: PINT, PGOV, PINR, SHUM, AF  
SUBJECT: TOUR D'HORIZON WITH AFGHAN JUSTICE MINISTER JAUZJANI

REF: KABUL 4202

1. SUMMARY: DURING MY INITIAL COURTSEY CALL ON ABDUL  
HAKIM SHARAE JAUZJANI, MINISTER OF JUSTICE AND ATTORNEY GENERAL  
OF THE DEMOCRATIC REPUBLIC OF AFGHANISTAN (DRA), ON AUGUST 1,  
HE TOLD ME THAT THE PROMULGATION OF A NEW CONSTITUTION WILL TAKE  
SOME TIME TO COMPLETE BECAUSE IT MUST ADEQUATELY REFLECT THE  
BASIC SOCIAL AND ECONOMIC CONDITIONS AND OBJECTIVES OF AFGHAN  
SOCIETY. JAUZJANI DESCRIBED THE RELEASE, ON HUMANITARIAN  
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GROUNDS, OF SOME 7,000 PRISONERS SINCE THE APRIL 27-28  
REVOLUTION. HE ALSO PROMISED THAT THE DETAINED WIVES AND  
CHILDREN OF THE "NADERI" FAMILIES WOULD EVENTUALLY BE RELEASED.  
END OF SUMMARY.

2. ACCOMPANIED BY THE POLITICAL COUNSELOR, I PAID  
MY INITIAL COURTESY CALL ON ABDUL HAKIM SHARAE

JAUZJANI, MINISTER OF JUSTICE, ON AUGUST 1. I FOUND JANUZJANI TO BE AN INTELLIGENT, ALERT, FRIENDLY MAN. WHILE AVOIDING THE USE OF EXCESSIVE IDEOLOGICAL JARGON, HE GIVES THE IMPRESSION OF BEING A COMMITTED AND HIGHLY MOTIVATED OFFICIAL. JAUZJANI IS AMONG THE MORE IMPRESSIVE CABINET MINISTERS I HAVE MET THUS FAR.

3. NEW CONSTITUTION WILL BE DELAYED: NOTING THAT THE NEW REGIME HAD ABROGATED THE CONSTITUTION OF 1977, I ASKED WHEN A NEW ONE WOULD BE READY. JAUZJANI REPLIED THAT EXTENSIVE SOCIAL AND ECONOMIC REFORMS ARE UNDERWAY AND THAT A NEW CONSTITUTION WOULD HAVE TO TAKE THESE INTO ACCOUNT BEFORE A RELEVANT AND EFFECTIVE CONSTITUTION COULD BE DRAFTED. HE OBSERVED THAT PAST AFGHAN CONSTITUTIONS WERE NEVER PUT INTO FULL EFFECT BECAUSE THEY DID NOT REFLECT THE TRUE STATE OF SOCIETY.

4. PRESENT LEGAL SYSTEM: JAUZJANI STATED THAT THE NEW REGIME IS UTILIZING THOSE LAWS OF THE PREVIOUS REGIME WHICH ARE NOT IN CONFLICT WITH REVOLUTIONARY PRINCIPLES. HE EXPLAINED THAT THE SPECIAL "MOBILE MILITARY COURTS" AUTHORIZED BY DECREE NO. 3 HAVE NOT YET BECOME NECESSARY BECAUSE THEY WERE DESIGNED ONLY TO HANDLE DIS-

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DIFFICULTIES GROWING OUT OF LAND REFORM.

5. POST-REVOLUTION RELEASE OF PRISONERS: CITING THE AFGHAN PRESS ACCOUNTS OF THE LARGE-SCALE RELEASES OF PRISONERS FROM JAILS AND PRISONS THROUGHOUT THE COUNTRY OVER THE THREE MONTHS SINCE THE REVOLUTION, I OBSERVED THAT THIS TYPE OF PROGRAM WAS OF SPECIAL INTEREST TO US BECAUSE OF AMERICA'S STRONG INTEREST IN HUMAN RIGHTS. JAUZJANI BECAME RATHER ANIMATED IN HIS RESPONSE, PROBABLY BECAUSE THIS HAS BEEN ONE OF HIS PRINCIPAL AREAS OF INTEREST (SEE PARAGRAPH 5 OF REFTEL).

6. JAUZJANI STATED, WITH OBVIOUS PRIDE AND SATISFACTION, THAT, OF THE 14,000 ORDINARY (I.E., NON-POLITICAL) PRISONERS HIS MINISTRY FOUND IN AFGHAN PRISONS AFTER THE REVOLUTION, SOME 7,000 -- OR FIFTY PERCENT -- HAVE ALREADY BEEN RELEASED OR ARE NOW IN THE PROCESS OF BEING RELEASED. HE EXPLAINED HOW HE HAD ASSIGNED A TEAM OF SEVENTY JUSTICE OFFICIALS TO WORK "DAY AND NIGHT" CLEARING A BACKLOG OF 8,000 OUTSTANDING CASES WHICH HAD BECOME STALLED IN THE

DAOUDIST COURT SYSTEM (AS THE ACCUSED WAITED UNDER CUSTODY, OFTEN FOR MONTHS OR YEARS). THE TEAM WENT THROUGH 2.5 MILLION PAGES OF DOCUMENTS IN ONE MONTH, UNBLOCKING THE LOGJAM.

7. ANOTHER JUSTICE TEAM CHECKED THE FILES OF THOSE WHO HAD ALREADY BEEN CONVICTED AND SENTENCED. IN MANY CASES THEY RECOMMENDED IMMEDIATE RELEASE BECAUSE OF THE PETTINESS OF THE OFFENSE -- OR THE FACT THAT THE SENTENCES OF MANY PRISONERS HAD ALREADY EXPIRED (IN SOME CASES, MONTHS EARLIER). IN THE CASES OF PRISONERS WHO THEY DECIDED SHOULD REMAIN IN PRISON, APPROXIMATELY NINETY PERCENT OF THE SENTENCES WERE REDUCED. LIFE SENTENCES WERE CONFIDENTIAL

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REDUCED TO 15 TO 16 YEARS. FIFTEEN-YEAR SENTENCES WERE REDUCED TO 8 TO 10 YEARS. ALL PRISONERS OVER THE AGE OF 60 OR SUFFERING AN INCURABLE DISEASE WERE RELEASED, REGARDLESS OF THE OFFENSE COMMITTED. PRISONERS WHOSE FAMILIES URGENTLY NEEDED THEIR

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PRESENCE AND SUPPORT WERE ALSO RELEASED. IF A MAN HAD HAD AN ADDITIONAL SENTENCE IMPOSED FOR MISBEHAVIOR WHILE INCARCERATED DURING THE PRE-REVOLUTIONARY ERA, IT WAS REMOVED BECAUSE THE NEW REGIME ASSUMED THAT THE PRISONER'S REBELLION HAD BEEN THE RESULT OF DEPLORABLE PRISON CONDITIONS.

8. STATE OF THE PRE-REVOLUTIONARY PRISONS: WITH SOME EMOTION, JAUZJANI DESCRIBED THE MEDIEVAL STATE OF THE PRISON SYSTEM HE INHERITED FROM THE DAOUDIST ERA. HE SAID THAT HIS REGIME HAD ORIGINALLY WANTED TO INVITE SOME INTERNATIONAL HUMANITARIAN AGENCY TO INSPECT THE DAOUDIST  
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PRISONS, BUT DISCARDED THAT IDEA WHEN IT BECAME CLEAR THAT THE PRISONERS WANTED TO BE RELEASED AS QUICKLY AS POSSIBLE, AND NOT BE INTERVIEWED. JAUZJANI HIMSELF VISITED THE WORST EXAMPLES, CLAIMING THAT HE WAS THE FIRST AFGHAN MINISTER OF JUSTICE TO STEP INTO THESE ESTABLISHMENTS. HE PERSONALLY VIEWED, FOR EXAMPLE, NAKED PRISONERS WHO ONLY HAD PADS OF DAMP CLAY ON THE FLOOR ON WHICH TO SLEEP; AN ANCIENT MAN WHO WAS SERVING OUT THE LATTER PART OF A 72-YEAR SENTENCE; CATATONIC AND OTHER MENTAL CASES, INCLUDING PEOPLE WHO WERE SENTENCED AS "CRAZY" BECAUSE THEY USED "BAD WORDS" TO DESCRIBE THE ROYAL FAMILY; A CELL SO CROWDED THAT SOME PRISONERS DID NOT HAVE ROOM ON THE FLOOR, BUT HAD TO HUDDLE INSTEAD ON WINDOW LEDGES WHERE THERE WAS NO GLASS AT THE BARS TO KEEP OUT THE ELEMENTS; AND A MAN WITH TWENTY KILOGRAMS OF CHAIN LOCKED AROUND HIS NECK AND TORSO.

9. HUMAN RIGHTS RECORD OF THE PRESENT REGIME: JAUZJANI CLAIMED THAT THE NEW REGIME TRIES TO EXERCISE JUSTICE IN A HUMANITARIAN WAY. HE STATED, FOR EXAMPLE, THAT THE DAOUDIST PROSECUTOR WHO ONCE SEARCHED HIS OWN HOUSE IN AN AGGRESSIVE MANNER HAS BEEN FREED AFTER QUESTIONING. THE DAOUDIST POLICE OFFICIAL WHO CHAINED PRIME MINISTER NOOR HOHAMMAD TARAKI ON THE EVE OF THE REVOLUTION HAS ALSO BEEN FREED AFTER A BRIEF DETENTION. LARGE NUMBERS OF

FORMER OFFICIALS HAVE BEEN RELEASED AFTER INTERROGATION. ONLY THOSE WHO "STILL OPPOSE THE REVOLUTION" ARE BEING HELD. THEY ARE BEING CONFINED "IN COMFORTABLE QUARTERS WITH GOOD FOOD AND SHOWERS". (COMMENT: OUR CONSULAR OFFICERS WHO MONITOR COURT CASES REPORT THAT JUSTICE IS CONFIDENTIAL

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INDEED BEING DISPENSED MUCH MORE QUICKLY AND EFFICIENTLY SINCE THE REVOLUTION. END OF COMMENT).

10. STATUS OF THE FEMALE AND JUVENILE DETAINEES:  
JAUZJANI TOOK NO OFFENSE WHEN I RAISED THE QUESTION OF THE DETENTION OF THE WOMEN AND CHILDREN OF FORMER DAOUD OFFICIALS AND SUGGESTED THAT A HUMANITARIAN GESTURE TOWARD THESE PERSONS WOULD BE WELL RECEIVED ABROAD. JAUZJANI STATED THAT HE HAS ALREADY SENT RECOMMENDATIONS TO HIS SUPERIORS CONCERNING THE ONWARD HANDLING OF THE DETAINED WIVES AND CHILDREN OF THE "NADERI

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(I.E., YAHYA KHEL ROYAL FAMILY) PRISONERS. HE HAS ADVISED WAITING A LITTLE LONGER FOR PUBLIC INDIGNATION TO COOL SOMEWHAT. JAUZJANI RECALLED THAT DAOUD HAD MADE A POLITICAL MISTAKE BY PREMATURELY ALLOWING SEVERAL MEMBERS OF KING ZAHIR'S FAMILY TO FOLLOW THE KING INTO EXILE AT ROME. HE SAID THAT THIS ACT HAD ENRAGED MANY OF THOSE WHO SUPPORTED DAOUD'S 1973 REVOLUTION, ESPECIALLY IN THE MILITARY RANKS. THEREFORE, CONCLUDED JAUZJANI, AT A SUITABLE TIME, WHEN THE ACT WILL ATTRACT LESS INTEREST, THESE DETAINEES WILL BE RELEASED AND GIVEN THE CHOICE OF REMAINING IN AFGHANISTAN OR GOING ABROAD. UNTIL THEN, HE STATED, THEY HAVE TO BE KEPT IN PROTECTIVE CUSTODY FOR THEIR OWN SECURITY. (JAUZJANI EXPLAINED THAT THE NADERIS HAD MADE MANY PERSONAL ENEMIES AMONG THE PEOPLE WHEN THEY WERE ON TOP -- AND THAT IT JUST WAS NOT SAFE FOR THEM TO REMAIN IN THEIR HOMES.)

11. COMMENT: ALTHOUGH WE HAVE YET TO EVALUATE THE JUDICIAL AND PENAL RECORD OF THIS REGIME, DUE CREDIT SHOULD BE GIVEN TO THIS PARTICULAR RELEASE OPERATION WHEN THE HUMAN RIGHTS REPORT ON AFGHANISTAN IS DRAFTED FOR CONGRESS LATER THIS YEAR. INCIDENTALLY, THIS RELEASE PROGRAM DOES NOT SEEM TO HAVE BEEN DESIGNED TO CURRY POPULAR FAVOR. ON THE CONTRARY, THERE IS MUCH PUBLIC CONCERN HERE THAT THE RELEASE PRISONERS WILL RETURN TO LIFE OF CRIME, COMPOUNDING THE LAW-AND-ORDER PROBLEMS OF THIS COUNTRY.

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12. AS FOR THE STATUS OF THE NADERI DETAINEES, I WAS SOMEWHAT

REASSURED BY JAUZJANI'S PRESENTATION, BUT STILL BELIEVE THAT  
IT WOULD BE USEFUL FOR THE ICRC TO ENCOURAGE THEIR TIMELY  
RELEASE.  
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## Message Attributes

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